

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAN VIGDOR, et al.,
Plaintiffs,

v.

SUPER LUCKY CASINO, INC., et al.,
Defendants.

Case No. 16-cv-05326-HSG

**ORDER ON ADMINISTRATIVE
MOTIONS TO SEAL**

Re: Dkt. Nos. 80, 88, 92, 112, 115, 122,
126, 130, 133, 140

Pending before the Court are the parties' administrative motions to seal various documents pursuant to Civil Local Rule 79-5. Dkt. Nos. 80, 88, 92, 112, 115, 122, 126, 130, 133, and 140.

I. LEGAL STANDARD

Courts generally apply a "compelling reasons" standard when considering motions to seal documents. *Pintos v. Pac. Creditors Ass'n*, 605 F.3d 665, 678 (9th Cir. 2010) (quoting *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006)). "This standard derives from the common law right 'to inspect and copy public records and documents, including judicial records and documents.'" *Id.* (quoting *Kamakana*, 447 F.3d at 1178). "[A] strong presumption in favor of access is the starting point." *Kamakana*, 447 F.3d at 1178 (quotation omitted). To overcome this strong presumption, the party seeking to seal a judicial record attached to a dispositive motion must "articulate compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure, such as the public interest in understanding the judicial process" and "significant public events." *Id.* at 1178-79 (quotation omitted). "In general, 'compelling reasons' sufficient to outweigh the public's interest in disclosure and justify sealing court records exist when such 'court files might have become a vehicle for improper purposes,' such as the use of records to gratify private spite,

promote public scandal, circulate libelous statements, or release trade secrets.” *Id.* at 1179 (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)). “The mere fact that the production of records may lead to a litigant’s embarrassment, incrimination, or exposure to further litigation will not, without more, compel the court to seal its records.” *Id.*

The Court must “balance[] the competing interests of the public and the party who seeks to keep certain judicial records secret. After considering these interests, if the court decides to seal certain judicial records, it must base its decision on a compelling reason and articulate the factual basis for its ruling, without relying on hypothesis or conjecture.” *Id.* Civil Local Rule 79-5 supplements the compelling reasons standard set forth in *Kamakana*: the party seeking to file a document or portions of it under seal must “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law . . . The request must be narrowly tailored to seek sealing only of sealable material.” Civil L.R. 79-5(b).

Records attached to nondispositive motions, however, are not subject to the strong presumption of access. *See Kamakana*, 447 F.3d at 1179. Because such records “are often unrelated, or only tangentially related, to the underlying cause of action,” parties moving to seal must meet the lower “good cause” standard of Rule 26(c) of the Federal Rules of Civil Procedure. *Id.* at 1179-80 (quotation omitted). This requires only a “particularized showing” that “specific prejudice or harm will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002); *see also* Fed. R. Civ. P. 26(c). “Broad allegations of harm, unsubstantiated by specific examples of articulated reasoning” will not suffice. *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992) (quotation omitted).

II. DISCUSSION

The various documents and portions of documents the parties seek to seal are more than tangentially related to the underlying cause of action, and the Court therefore applies the “compelling reasons” standard. The parties have provided a compelling interest in sealing portions of the various documents listed below because they contain confidential business and financial information relating to the operations of Defendants. *See Apple Inc. v. Samsung Elecs.*

Co., Ltd., No. 11-CV-01846-LHK, 2012 WL 6115623 (N.D. Cal. Dec. 10, 2012); *see also Agency Solutions.Com, LLC v. TriZetto Group, Inc.*, 819 F. Supp. 2d 1001, 1017 (E.D. Cal. 2011); *Linex Techs., Inc. v. Hewlett-Packard Co.*, No. C 13-159 CW, 2014 WL 6901744 (N.D. Cal. Dec. 8, 2014) (holding sensitive financial information falls within the class of documents that may be filed under seal). The parties have identified portions of the unredacted versions of motions and exhibits as containing confidential business information; the Court finds sufficiently compelling reasons to grant the motions to file the below-indicated portions under seal.

A number of Plaintiffs' proposed redactions indicate that they are contingent upon Defendants filing a declaration in support of those portions sought to be redacted. As evidenced in the chart, the Court DENIES the sealing of documents relating to Defendants' CBI for which neither party has provided support.

The parties request the following portions of the various documents be sealed:

Docket Number Public/(Sealed)	Document	Portion(s) Sought to be Sealed	Ruling (basis)
80-3/(80-1)	Plaintiff's Motion for Leave to File a Fourth Amended Complaint	Proposed redactions listed in Dkt. No. 80	GRANTED
No Public Version Filed/(80-2)	Murray Declaration	Proposed redactions listed in Dkt. No. 80, plus page 5, lines 1–12 of the proposed Fourth Amended Complaint and redline. The Court DENIES the motion to seal Exhibits A–C to Exhibit 1 to the Murray Declaration and quotations from these documents.	GRANTED IN PART
No Public Version Filed/(88-3)	Exhibit 9 to Estrin Declaration (Plaintiff's Responses to Defendant's Third Set of Interrogatories)	7:8-10; 17:7-9; 24:2-4, 24:10-12; 25:28-26:2; 27:28-28:2; 28:9-10; 29:18-19; 30:13-15; 31:15-19; 32:23-25; 37:27-38:1; 40:1-2	GRANTED
No Public Version Filed/(92-5)	Fourth Amended Complaint	Proposed redactions in Dkt. No. 92-4, plus page 5, lines 1–12 of the proposed Fourth Amended Complaint. The Court DENIES the motion to seal Exhibits A–C to the	GRANTED IN PART

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		Fourth Amended Complaint and quotations from these documents.	
No Public Version Filed/(112-4)	Defendants' Motion for Summary Judgment	Page 3, lines 6-7 Page 6, lines 6-12, 14-22 Page 7, lines 1 Page 14, lines 13-17 Page 16, lines 13-14 Page 17, lines 11, 27 Page 24, lines 7-11, 15-16, 18-19 Page 25, lines 2-3, 6-8, 10-12, 25-26	GRANTED IN PART
No Public Version Filed /(112-5)	Exhibit 1 to Allen Declaration	Entire document	DENIED (no supporting declaration)
Entire document sealed/(112-6)	Exhibit 2 to Allen Declaration	Entire document	GRANTED
Entire document sealed/(112-7)	Exhibit 5 to Allen Declaration	Entire document	GRANTED
Entire document sealed/(112-8)	Exhibit 8 to Allen Declaration	Entire document	GRANTED
Entire document sealed/(112-9)	Exhibit 9 to Allen Declaration	Entire document	GRANTED
Entire document sealed/(112-10)	Exhibit 10 to Allen Declaration	Entire document	GRANTED
No Public Version Filed /(112-11)	Exhibit 13 to Allen Declaration	Entire document	DENIED (no supporting declaration)
No Public Version Filed /(112-12)	Exhibit 14 to Allen Declaration	Entire document	DENIED (no supporting declaration)
No Public Version Filed /(112-13)	Exhibit 15 to Allen Declaration	Entire document	DENIED (no supporting declaration)
No Public Version Filed /(112-14)	Exhibit 16 to Allen Declaration	Entire document	DENIED (no supporting declaration)
No Public Version Filed/(115-5)	Plaintiffs' Motion for Partial Summary Judgment	1:14, 2:10-3:22, 4:3-6, 5:12, 13-14, 5:20-6:1, 5:27-28, 6:6-9, 6:12-20, 9:25, 10:6, 11:8-11, 12:27-28, 12:28-13:1, 13:4-6, 13:10-11, 13:26-27 The Court DENIES the motion to seal: 5:10, 10:8	GRANTED IN PART
118/(115-6)	Appendix of Exhibits	Redactions listed in Dkt. No. 120	GRANTED

No Public Version Filed/(122-6)	Plaintiffs' Opposition to Defendants' Motion for Summary Judgement	1:25-4:7, 4:8-7:6, 7:7-13, 7:14- 11:16, 13:9-10, 13:11-20, 14:6- 13, 14:14-17, 14:22-24, 15:20- 23, 15:27-28, 16:18-21, 17:5- 20, 18 n.8, 20:1-8, 20:18-22, 20:25-26:8, 21:16-28, 23:4-7, 23:19-24:2, 24:15-25:10, including n. 10, 25:11-15 The Court DENIES the motion to seal: 4:8-7:6, 13:11-20, 14:14-17, 15:1-15,16:8-9, 25:11-15	GRANTED IN PART
No Public Version Filed/(122-4)	Appendix of Exhibits	Vigdor Declaration, Bradway Declaration, Margulis Declaration at 1:21-23, Jacobs Declaration at 3:7-4:3, Exhibits: 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 39, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, 52, 56, 57, 60, 61, 62, 63, 64 The Court DENIES the motion to seal Exhibits: 19, 37, 38, 47, 48, 53, 54, 55, 58, 59	GRANTED IN PART
No Public Version Filed/(126-4)	Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment	Page 4, lines 17-19 Page 5, lines 1-8 & 15-17 Page 8, lines 16-18 & 22 Page 9, lines 1-11 Page 13, lines 7 & 26 Page 17, lines 24-25 Page 18, lines 1, 18- 21, 23-24 Page 19, lines 1 & 10-11 Page 20, lines 2-6 & 24 Page 21, lines 1-2, 12-14, 25-26 The Court DENIES the motion to seal: Pages 3, lines 24 & 26 Page 5, lines 12-14	GRANTED IN PART
Entire document sealed/(126-5)	Exhibit A to Talarico Declaration	Entire document	GRANTED
Entire document sealed/(126-6)	Exhibit B to Talarico Declaration	Entire document	GRANTED
No Public Version Filed/(126-7)	Exhibit C to Hur Declaration	Entire document	DENIED (no supporting declaration)
No Public Version Filed/(126-8)	Exhibit D to Hur Declaration	Entire document	DENIED (no supporting declaration)
No Public Version Filed/(126-9)	Exhibit E to Hur Declaration	Entire document	DENIED (no supporting


			declaration)
No Public Version Filed/(126-10)	Exhibit F to Hur Declaration	Entire document	DENIED (no supporting declaration)
Entire document sealed/(126-11)	Exhibit G to Timmins Declaration	Entire document	GRANTED
130-3/(130-4)	Defendants Reply in Support of Motion for Summary Judgment	Page 6, lines 13-15 Page 8, lines 13-15 Page 9, lines 3-5 Page 11, lines 5-8 & 11 Page 13, lines 26-28 Page 14, lines 4 & 23 Page 15, lines 10 & 23	GRANTED
No Public Version Filed/(130-5)	Exhibit 17 to Allen Declaration	Entire document	DENIED (no supporting declaration)
No Public Version Filed/(130-6)	Exhibit 18 to Allen Declaration	Entire document	DENIED (no supporting declaration)
Entire document sealed/(130-7)	Exhibit 19 to Allen Declaration	Entire document	GRANTED
No Public Version Filed/(133-5)	Plaintiffs' Reply in Support of Motion for Summary Judgment	Pages 1:18-20, 3:3-5, 3:14-4:5, 1:18-20, 4:19-21, 6:20-21, 7:7- 9, 7:28-8:3, 8:19-23, 8:24-28, 9:2-5, 9:17-18, 9:21-25, 9:26- 27, 10:7-8, 11:17-19, 12:22-25 (n. 5), 13:8-11, 15:13-14 The Court DENIES the motion to seal: 7:4, 8:1-4	GRANTED IN PART
133-6/(133-7)	Supplemental Jacobs Declaration	Paragraph 2	GRANTED
Entire document sealed/(133-7)	Exhibit 65	Entire document	GRANTED
Entire document sealed/(133-7)	Exhibit 66	Entire document	GRANTED
Entire document sealed/(133-7)	Exhibit 67	Entire document	GRANTED
140-3/(140-4)	Plaintiffs' Objections to Evidence Submitted by Defendants with Their Reply in Support of Defendants' Motion for Summary Judgment	Pages 1:13-16; 2:1, 2:6-7; 2:9- 10; and 2:12-20	GRANTED

III. CONCLUSION

For the foregoing reasons, the Court **GRANTS IN PART** and **DENIES IN PART** Dkt. Nos. 80, 92, 112, 115, 122, 126, 130, and 133, and **GRANTS** Dkt. Nos. 88 and 140. The Court **DIRECTS** the parties to file public versions of all documents for which the proposed sealing has been denied and/or for which no public version has been filed, as indicated in the chart above. Pursuant to Civil Local Rule 79-5(f)(1), documents filed under seal as to which the administrative motions are granted will remain under seal. The public will have access only to the redacted versions accompanying the administrative motions.

IT IS SO ORDERED.

Dated: 9/18/2018


HAYWOOD S. GILLIAM, JR.
United States District Judge